

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

TINA LINDQUIST	:	NO. 04-249E
	:	
Plaintiff,	:	
	:	JUDGE SEAN MCLAUGHLIN
v.	:	
	:	
HEIM, L.P.	:	
	:	
Defendant.	:	

PLAINTIFF'S VOIR DIRE

AND NOW, comes the Plaintiff, Tina Lindquist, by and through her attorney, Dallas W. Hartman, P.C., and set forth the following *Voir Dire* as follows:

PROPOSED VOIR DIRE:

1. I have been informed that the following people may be called to testify in this case:

- a. Tina Lindquist Ossa
- b. Jamie Ossa
- c. Gary Dietz
- d. Jan Oviatt
- e. Dave Phillips
- f. Robert Rooney
- g. Kevin Messinger
- h. Gary Merkle
- i. Joel Nichols
- j. Zygmund Zajdel
- k. Anthony Mase

Do any of you know any of these individuals?

2. Are you or any members of your immediate family personally acquainted with, or have you been treated by the following healthcare providers who may be called as witnesses in this case?

- a. John M. Hood, M.D.
Hand Microsurgery & Reconstructive Orthopaedics, LLP

3. I have been informed that the following people:

- a. Donal F. Kirwan, SPHR
Forensic Human Resources
- b. Andrew G. Verzilli, Ph.D.
Andrew C. Verzilli, M.B.A.
Verzilli & Verzilli & Consultants Inc.
- c. Ralph Barnett
Triodyne, Inc.
- d. Matthew Ulmenstein
- e. Gary Hutter
Meridian Engineering & Technology, Inc.
- f. William Switalski
Switalski Engineering, Inc.
- g. Dennis Cloutier
Cloutier Consulting Services, LLC

may also be called to testify as expert witnesses in this case. Have any of you ever had any contact of any kind with any of these individuals?

4. This case is based on a body of law known as products liability. In this case, the Plaintiff suffered severe injuries to her hands while using a product known as a Press Brake while in the course of her employment. A Press Brake is a machine used to bend and form pieces of metal. The Press Brake at issue in this case was activated or made to operate by way of a foot control. It is the Plaintiff's contention that the Heim Press Brake was defective in that it was designed, manufactured and sold with a foot pedal that did not contain a front gate to prevent the machine from being inadvertently activated. The Plaintiff suffered amputation injuries to both hands when she inadvertently activated the foot control while her hands were forming a piece of metal in the machine. Is anyone familiar with what a Press Brake is?

5. Other than what I've just told you, does any member of the panel know anything about the facts of this case?

6. The law in civil cases states that a Plaintiff must only prove her case by a preponderance of the evidence, which means more likely than not, or by the greater weight of the evidence, meaning just over 50 percent. For example, if you find that the Plaintiff has presented enough evidence so that the scales tip in her favor ever so slightly, you must find for the Plaintiff. Is there a member of the panel who believes that the Plaintiff must prove all elements of their case by some higher standard of proof such as the criminal standard of proof beyond a reasonable doubt?

7. The law states that the manufacturer of a product is the guarantor of its safety. That means that the product must be provided with every element necessary to make it safe for its intended use, and without any condition that makes it unsafe for its intended use. Is there any member of the panel who disagrees with imposing that responsibility on the manufacturer of a product?

8. The law does not require Plaintiff to prove that the defective product, the Press Brake, was the sole cause of her injuries. There may have been other causes that may have also contributed to causing her injuries. In order to impose liability in this case against Defendant Heim, the Plaintiff must only prove that the defective product was a factual cause of her injuries. Is there any member of the panel who believes that standard to be unfair to the Defendant?

9. The law states that when someone is injured the way compensation is made is in the form of money. The law states that money damages are the only way an injured party can be compensated in a civil case. Is there any member of the panel who would have a problem with awarding money to compensate my client for the following:

- a. Past medical bills;
- b. Past and present lost earnings;
- c. Past, present and future pain and suffering;
- d. Past, present and future scarring and disfigurement;
- e. Past, present and future loss of enjoyment of life;
- f. Past, present and future emotional distress; and
- g. Loss of future earning capacity.

10. Does anyone have a strong opinion, one way of the other, as to whether a Plaintiff injured in the course of their employment should have the right to recover money damages for their injuries from the manufacturer of the product that caused them harm?

11. Is there anything in your background, experience or anything that you have ever heard, read or seen which would cause you to limit the amount of compensation you might award in this case?

12. Have you ever thought to yourself that jury awards in other cases were too high?

13. Do any of you feel that a person should not be entitled to be compensated for pain and suffering or loss of life's pleasures?

14. Do any of you feel that pain and suffering or loss of life's pleasures is of any less importance than purely financial losses?

15. Do any of you feel that a person should not be entitled to be compensated for suffering embarrassment and humiliation?

16. Do any of you feel that suffering embarrassment and humiliation is of any less importance than purely financial losses?

17. Do any of you feel that a person should not be entitled to be compensated for sustaining an accident related disfigurement?

18. Do any of you feel that an accident related disfigurement is of any less importance than purely financial losses?

19. Would you have any reluctance about returning a fair and proper verdict even if it was a very substantial amount?

20. The Plaintiff will be able to demonstrate that her loss exceeds one million dollars in this case.

- a. Will you be able to vote to fully compensate Plaintiff for his loss?
- b. Do any of you have a limit in your own mind of so any dollar amount, beyond which you would not render a verdict, regardless of the evidence?

21. Does anyone on the panel have any feelings against people who bring suit for injuries, mental anguish, pain and suffering, disability, disfigurement and loss of life's pleasures?

22. Does any member of the panel feel that people should not sue for their injuries?

23. Has anyone on the panel heard, read or seen any material which discusses proposed reforms of our current judicial system?

24. Who on the panel has any fixed or otherwise strong feelings on the issue of proposed reforms of our judicial system?

25. Do you believe it would be better for society if changes in the judicial system were made?

26. Does any member of the panel believe that any of the information that you have read, seen or heard, about changes in our present justice system could affect your verdict in this case?

27. Have any of you or your immediate family members been employed by a company engaged in the casualty or liability insurance business?

28. Are any of you or your immediate family members shareholders in any company that in whole, or in part, is engaged in the casualty or liability insurance business?

29. Have any of you or your immediate family members ever been employed as a claims adjuster or have you or the immediate members of your family been in the business of investigating claims?

30. Is there any reason that you could not be fair to the injured party in this case?

31. Do any of you have any interest of any kind relating to the final result of this law suit?

32. I understand this trial will take approximately 5-7 days. Do you now know of any reason why you could not sit as a fair and impartial juror in this case and give each party an equally fair trial? In other words, is there any reason whatsoever that you would prefer not to sit on this jury?

33. Do you have any physical ailments which would keep you from giving this case your full attention?

34. Have you ever used the services of an attorney?

35. If so, please indicate the name of the attorney and the reason that his/her services were utilized.

36. Have you ever been involved in a lawsuit or court action?

37. If so, please indicate the nature of the proceeding, whether you were the complaining party or the defending party and the outcome of the suit.

38. Do you or any member of your family know any of the lawyers involved in this case?

39. Have you or any member of your family used the services of any of the attorneys involved in this case?

40. Have you ever been involved in a lawsuit or court action involving a defective product wherein you were the plaintiff asking for monetary damages for injuries suffered in the accident?

41. Have you ever been involved in a claim or court action arising out of a work related accident wherein you were seeking monetary damages for the injuries suffered in the accident?

42. Have you ever been involved in a lawsuit or court action involving a claim for personal injury wherein suit was brought against you asking for monetary damages?

43. Have you or anyone close to you ever suffered the amputation of a body part?

44. If the answer to the preceding question is in the affirmative, please indicate the nature of the injury which you sustained and whether or not the injury or its effect continues to trouble you through today.

45. Do you believe that you can decide this case based solely on the evidence presented in the courtroom, without prejudice or bias, without preconceived ideas of who shall prevail?

46. Are you or any member of your family involved in the health care field?

47. If so, in what capacity?

Respectfully Submitted,

DALLAS W. HARTMAN, P.C.

DATE: 08/10/07

/ s / Dallas W. Hartman
ATTORNEYS FOR PLAINTIFF
Dallas Hartman, Esquire
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served a copy of the within document upon all other parties or their attorney via first class mail, postage pre-paid:

VIA ELECTRONIC FILING:

Paul R. Robinson, Esquire
MEYER, DARRAGH, BUCKLER, BEBENEK & ECK, PLLC
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Attorney for DEFENDANT

DALLAS W. HARTMAN, P.C.

DATE: 08/10/07

/ s / Dallas W. Hartman
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